

REMARKS

A. Status of the Application

- Claims **10** and **43-74** are pending in the application, of which claims **10, 53** and **64** are independent claims.
- Claims **1-9** and **11-42** are cancelled.

Accordingly, entry of the amendments is respectfully requested. Applicants intend to pursue the subject matter of the previously cancelled claims, in one or more continuing applications.

Applicants hereby request that the Examiner re-visit any previous surrender, disclaimer or characterization of claims, and re-visit any prior art that may have been avoided or intended to be avoided by such surrender, disclaimer or characterization. In addition, a new search is requested.

B. Claim Rejections Under 35 U.S.C. § 112

On page 2, the Office Action rejected claims **53-74** under 35 U.S.C. § 112, ¶ 2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner argues that claims **53-74** represent improper dependent claims reciting both computer readable medium and system to carry out a method of claim as stated. Although the Applicants disagree with the rejection, in an effort to further prosecution, claims 53-74 have been amended. The amendments render moot the rejections under 35 U.S.C. § 112, ¶ 2.

C. Claim Rejections Under 35 U.S.C. § 102

On page 3, the Examiner rejected claims 10 and 43-74 under 35 U.S.C. § 102(b) as being anticipated by U.S. Publication No. 20040236662 (“Korhammer”). However, no prima facie case for anticipation has been established for these claims.

1. *The Office Action fails to teach the limitation “each market center comprises a disclosure policy” of independent claims 10, 53 and 64*

The Office Action fails to show that Korhammer teaches or suggests the following limitations of independent claims **10, 53** and **64**:

receiving... an indication that a plurality of market centers match the trading order, ... in which each market center comprises a disclosure policy that indicates at least one rule for disclosing the trading order...

Although the Office Action alleges that Fig. 1 and paragraph 47 of Korhammer teach the above-cited limitation, in actuality, nowhere in the cited-portions of Korhammer is there a teaching or suggestion of “*a plurality of market centers [that] match the trading order... in which each market center comprises a disclosure policy,*” as recited by claims **10, 53** and **64**. Rather, paragraph 47 of Korhammer recites, in its entirety:

[0047] The customized order book is displayed on the user/trader's terminal 101 normally organized by security and price. This allows the user/trader 10 to compare the information from all of the ECNs 50 and 51 of which it is a member; NASDAQ's market makers 21 and 22; and ECN 353 best bid and offer in a single display to simplify the decision process. Analytical calculations from this data may also be displayed and used to aid the trader in making buy/sell decisions.

The cited-portions of Korhammer fail to even contain the words “*disclosure policy*” much less teach or suggest “*a plurality of market centers [that] match the trading order... in which each market center comprises a disclosure policy,*” as recited by claims 10, 53 and 64.

At best, the cited-portions of *Korhammer* describe “*allowing the user/trader 10 to compare the information from all of the ECNs 50 and 51*” (emphasis added). However, the term “*information*” alone fails to provide sufficient specificity to constitute a valid anticipation rejection under 35 U.S.C. § 102. *See, e.g.*, MPEP 2131.03(II) (“[i]n order to anticipate the claims, “the claimed subject matter must be disclosed in the reference with ‘sufficient specificity to constitute an anticipation under the statute’”). The term “*information*” alone, in no way, teaches or suggests “*each market center comprises a disclosure policy,*” as recited by claims **10, 53** and **64**.

Because the Office Action fails to demonstrate that *Korhammer* teaches or discloses “each and every” limitation of claims **10, 53** and **64**, no *prima facie* case of anticipation has been established for these claims. Clearly, the Office Action has misinterpreted paragraph 47 of *Korhammer*. Therefore, the rejection of independent claims **10, 54** and **64** (and claims **43-52, 54-63** and **65-74**, which depend therefrom) is in clear error.

2. *The Office Action fails to teach the limitation “the trading order has been routed to the first market center in accordance to a first disclosure policy*

The Office Action fails to show that *Korhammer* teaches or suggests the following limitations of independent claims **10, 53** and **64**:

... receiving, from a remote device, an indication that the trading order has been routed to a first market center in accordance to a first disclosure policy...

Although the Office Action alleges that Fig. 5 and paragraph 70 of *Korhammer* teach the above-cited limitation, in actuality, nowhere in the cited-portions of *Korhammer* is there a teaching or suggestion of “*the trading order [having] been routed to a first market center in accordance to a first disclosure policy,*” as recited by claims **10, 53** and **64**. Rather, paragraph 70 of *Korhammer* recites, in its entirety:

[0070] The network processes 502 communicate with one another by Intention to trade messages (ITTs) 401, order messages 402, and execution messages 403. An ITT 401 is used by the network process of an initiating user to notify the network processes 502 of its permissioned [sic] users (hereinafter "responding users") of available undisclosed liquidity. In general, the ITT 401 will indicate the name of the security (e.g. the symbol AMAT for Applied Materials), the "side" (i.e., buy or sell), the limit price for the security (e.g., 45.14), and the number of shares. When the network process on a responding user thereafter receives reciprocal undisclosed liquidity from the responding user, it will see the ITT received from the initiating user and send a responsive order message 402 to said network process 502 of the initiating user. In general, the order message would indicate the side, name of the security (symbol), quantity, and limit price of the reciprocal undisclosed liquidity of the responding user. The order is then confirmed by an execution message 403, for example, sent from the network process 502-1 to the network process 502-2. Reporting of executions could be done by the first network process 502-1, second network process 502-2, or both. It should be noted that although FIG. 7 illustrates an ITT and execution message emanating from network process 502-1, and an order message emanating from network process 502-2, the opposite is also true. In other words, network process 502-2 can transmit ITT and execution messages, and network process 502-1 can transmit order messages (although it is possible to configure a system in which a given network process 502 can only transmit ITT's or only respond to ITTs). Preferably, moreover, each process 502 will check for incoming ITTs from other process 502 that will hit/take the undisclosed liquidity (or portion thereof) before generating its own ITT.

As described above, the cited-portions of Korhammer fail to even contain the words "*disclosure policy*" much less teach or suggest "*the trading order [having] been routed to a first market center in accordance to a first disclosure policy,*" as recited by claims **10, 53** and **64**.

Because the Office Action fails to demonstrate that Korhammer teaches or discloses “each and every” limitation of claims **10, 53** and **64**, no *prima facie* case of anticipation has been established for these claims. Clearly, the Office Action has misinterpreted paragraph 70 of Korhammer. Therefore, the rejection of independent claims **10, 54** and **64** (and claims **43-52, 54-63** and **65-74**, which depend therefrom) is in clear error.

D. General Comments on Dependent Claims

Each dependent claim is patentable for at least the same reasons as the independent claim on which it depends. Thus, Applicants believe that it is unnecessary at this time to argue the allowability of each dependent claim individually. However, Applicants do not necessarily concur with the interpretation of the dependent claims as set forth in the Office Action, nor do Applicants concur that the basis for the rejection of any of the dependent claims is proper. Therefore, Applicants reserve the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

E. Conclusion

In general, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as a concession of any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

Applicants' undersigned attorney can be reached at the address shown below. All telephone calls should be directed to the undersigned at (857) 413-2056.

Respectfully submitted,

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